

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



October 13, 2005

CCL INFORMATION RELEASE NO. 2005-02REASON FOR THIS TRANSMITTAL

- ☒ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Initiated by CCL

TO: ALL CHILDREN'S RESIDENTIAL LICENSING PROGRAM STAFF**SUBJECT: EXTRACURRICULAR, ENRICHMENT, AND SOCIAL ACTIVITIES
FOR FOSTER CHILDREN****REFERENCE:** ASSEMBLY BILL (AB) 408, CHAPTER 813, STATUTE OF 2003

This memorandum is intended to inform you of current law which entitles foster children to participate in age-appropriate, extracurricular, enrichment, and social activities. Specifically, Section 362.05 of the Welfare and Institutions Code (W&IC) added by Assembly Bill (AB) 408, Chapter 813, Statutes of 2003:

- Provides that every child adjudged a dependent child of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities.
- Prohibits any state or local regulation or policy from preventing or creating barriers to participation in those activities.
- Requires each state and local entity to ensure that private agencies that provide foster care services to dependent children have policies consistent with this section and that those agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities.
- Requires caregivers to use a **prudent parent standard** in determining whether to give permission for a child residing in foster care to participate in extracurricular, enrichment, and social activities.
- Requires the caregivers to take **reasonable steps** to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.

Every day parents make important decisions about their children's activities. Foster parents are faced with making the same decisions for the foster children in their care. However, when foster parents make decisions they also must consider licensing laws and regulations and ensure the health and safety of children in care. The Department understands that licensing regulations have previously been interpreted as prohibiting youth from participating in extracurricular activities. This law now empowers foster parents to approve or disapprove activities based on their own assessment using a prudent parent standard without prior approval of the social worker, licensing agency or the court.

In enacting this law, the Legislature recognized the importance of making every effort to normalize the lives of foster children. Typical childhood activities in which foster children have been denied participation in the past include, for example, school-sponsored field trips or sports, sleep-over with friends, scouting, and 4-H. Frequently, foster parents are reluctant to sign permission slips for their foster children, when this should not be the case. Participation in these types of activities is important to the child's wellbeing, not only emotionally, but in developing valuable life-coping skills.

In applying the prudent-parent standard, foster parents are required to take "reasonable steps" to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level. We recognize that there are many different approaches to determine whether an activity is appropriate for a child in care. Therefore, we have provided the following examples of "reasonable steps" that a foster parent may take in making this determination:

- Have adequate information about the child so he/she can make informed decisions. For example, foster parents can make an effort to be aware of anything in the foster child's history, case plan and any orders issued by the court that may suggest that a particular activity would not be appropriate for the child. If the foster parent is not aware of the child's history or if the child's case plan is silent on whether the proposed activity would be appropriate, they are encouraged to consult with the child's social worker.
- Take into account the type of activity and consider the child's mental and physical health, and behavioral propensities.
- Consider where the activity will be held, with whom the child will be going, and when they will return.
- Ask the question: is this an age-appropriate extracurricular, enrichment or social activity?
- Take into account any reasonably foreseeable risk of an activity and what safety factors and direct supervision may be involved in the activity in order to prevent potential harm to the child. i.e., hunting, paint ball, archery or similar activities that may pose a higher risk.

When evaluating W&IC 362.05, the licensing agency will consider whether foster parent(s) have taken these or similar reasonable steps in determining the appropriateness of the activity in consideration of the child's age, maturity and developmental level.

This law only applies to participation in age-appropriate extracurricular, enrichment, and social activities. This law does not apply, for example, to unsupervised time at home. Any person having contact with a foster child not within the parameters of AB 408 must comply with existing background check requirements specified in Health and Safety Code Section 1522.

Section 362.05 W&IC has been further amended with the passage of SB 358 (Chapter 628, Statutes of 2005) to make reference to the following terms. Effective January 1, 2006, the following terms are defined as:

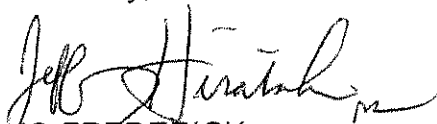
- "Caregiver" means any licensed or certified foster parent, approved relative caregiver, or approved nonrelative extended family member.
- "Reasonable and prudent parent" or "reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests.

Attached for your information is a copy of the memo related to this subject that is being sent to all children residential licensees.

Community Care Licensing is in the process of promulgating regulations to implement AB 408, and will keep licensing staff apprised of developments in this area.

If you have any questions regarding this informational memo, please contact Vincent Herrera at (916) 324-4312.

Sincerely,

A handwritten signature in black ink, appearing to read "Jo Frederick", with a stylized flourish at the end.

JO FREDERICK
Deputy Director
Community Care Licensing Division

Attachment

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TO: ALL CHILDREN'S RESIDENTIAL LICENSEES

SUBJECT: EXTRACURRICULAR, ENRICHMENT, AND SOCIAL ACTIVITIES FOR FOSTER CHILDREN

REFERENCE: ASSEMBLY BILL (AB) 408, CHAPTER 813, STATUTE OF 2003

This memorandum is intended to bring to your attention current law which entitles foster children to participate in age-appropriate, extracurricular, enrichment, and social activities. Current law (Section 362.05 Welfare and Institutions Code):

- Provides that every child adjudged a dependent child of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities.
- Prohibits any state or local regulation or policy from preventing or creating barriers to participation in those activities.
- Requires each state and local entity to ensure that private agencies that provide foster care services to dependent children have policies consistent with this section and that those agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities.
- Requires caregivers to use a **prudent parent standard** in determining whether to give permission for a child residing in foster care to participate in extracurricular, enrichment, and social activities.
- Requires the caregivers to take **reasonable steps** to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.

Every day parents make important decisions about their children's activities. Foster parents are faced with making the same decisions for the foster children in their care. However, when foster parents make decisions they also must consider licensing laws and regulations and ensure the health and safety of children in care. The Department understands that licensing regulations have previously been interpreted as prohibiting youth from participating in extracurricular activities. This law now empowers foster parents to approve or disapprove activities based on their own assessment using a prudent parent standard without prior approval of the social worker, licensing agency, or the court.

In enacting this law, the Legislature recognized the importance of making every effort to normalize the lives of foster children. Typical childhood activities in which foster children have been denied participation in the past include, for example, school-sponsored field trips or sports, sleep-over with friends, scouting, and 4-H. Frequently, foster parents are reluctant to sign permission slips for their foster children, when this should not be the case. Participation in these types of activities is important to the child's wellbeing, not only emotionally, but in developing valuable life-coping skills.

In applying the prudent-parent standard, foster parents are required to take "reasonable steps" to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level. We recognize that there are many different approaches to determine whether an activity is appropriate for a child in your care. Therefore, we are providing the following examples of "reasonable steps" that a foster parent may take in making this determination:

- Have adequate information about the child in your care so you can make informed decisions. For example, make an effort to be aware of anything in the foster child's history, case plan and any orders issued by the court that may suggest that a particular activity would not be appropriate for the child. If you are not aware of the child's history or if the child's case plan is silent on whether the proposed activity would be appropriate, you are encouraged to consult with the child's social worker.
- Take into account the type of activity and consider the child's mental and physical health, and behavioral propensities.
- Consider where the activity will be held, with whom the child will be going, and when they will return.
- Ask the question: is this an age-appropriate extracurricular, enrichment or social activity?
- Take into account any reasonably foreseeable risk of an activity and what safety factors and direct supervision may be involved in the activity in order to prevent potential harm to the child. i.e., hunting, paint ball, archery or similar activities that may pose a higher risk.

When evaluating a prudent parent standard decision, the licensing agency will consider whether foster parent(s) have taken these or similar reasonable steps in determining the appropriateness of the activity in consideration of the child's age, maturity and developmental level.

This law only applies to participation in age-appropriate extracurricular, enrichment, and social activities. This law does not apply, for example, to unsupervised time at home. Any person having contact with a foster child not within the parameters of AB 408 must comply with existing background check requirements specified in Health and Safety Code Section 1522.

If you have any questions regarding this informational memo, please contact your local licensing office.

Sincerely,

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JO FREDERICK
Deputy Director
Community Care Licensing Division